

REMARKS

Claims 1-16 are currently pending in the subject application and are presently under consideration. Claim 10 has been canceled. Claims 1-4, 6-7, 9, 11-13 and 15-16 have been amended. Claims 17-42 have been canceled and are being pursued in divisional applications. Applicants' representative thanks the Examiner for the withdrawal of the rejection under 35 U.S.C. §101.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-4, 6, 7, 9-14 and 16 Under 35 U.S.C. §102(e)

Claims 1-4, 6, 7, 9-14 and 16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Teegan, *et al.* (US 6,748,555). This rejection should be withdrawn for at least the following reasons. Teegan *et al.* does not disclose ***each and every*** limitation of the subject claims.

A single prior art reference anticipates a patent claim if “***each and every*** limitation set forth in the patent claim” is disclosed either expressly or inherently. (*Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295, 63 U.S.P.Q.2d 1597, 1599 (Fed. Cir. 2002) (citing to *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1052-53 (Fed. Cir. 1987))) (emphasis added). Moreover, “[t]he ***identical*** invention must be shown in as ***complete*** detail as is contained in the patent claim.” (*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) (citing *Jamesbury Corp. v. Litton Industrial Products, Inc.*, 756 F.2d 1556, 1560, 225 U.S.P.Q. 253, 257 (Fed. Cir. 1985); and *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983))) (emphasis added).

Teegan *et al.* discloses a software manager for monitoring software objects. (See *e.g.*, Teegan *et al.* at Abstract). The software manager is operable to derive program-level metrics to provide an overall picture of a software object's performance. (See *e.g.*, *Id.*). Teegan *et al.* does not disclose gathering and aggregating operational metrics indicative of one or more ***states of a plurality of member machines configured as an array of machines***, a unified result set indicative of the ***system-wide state of the array of machines*** or an interface for providing the unified set result to a requestor ***as if the array of machines were a singular machine*** as recited in the subject claims.

II. Rejection of Claims 1, 3-8 and 15 Under 35 U.S.C. §102(e)

Claims 1, 3-8 and 15 stand rejected under 35 U.S.C. §102(e) as being anticipated by Salzberg, *et al.* U.S. Publication No. 2003/0086536, KPMG Consulting Inc. (hereinafter Salzberg-KPMG). This rejection should be withdrawn for at least the following reasons. A declaration under 37 C.F.R. §1.131 has been filed concurrently with this Reply. This declaration shows that the subject matter recited in the claims was reduced to practice prior to the effective date of Salzberg-KPMG. Accordingly, this rejection should be withdrawn.

CONCLUSION


The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP125US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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